

Message Text

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ACTION SS-25

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AMEMBASSY LONDON

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EXDIS

DEPARTMENT FOR COUNSELOR NIMETZ
PASS TO USDA ELECTRONICALLY
E.O. 11652: GDS
TAGS: EAGR, BDIS, TU
SUBJ: TRADE COMPLAINT: CONTINENTAL GRAIN COMPANY VS TURKISH GOVT
REF: ANKARA 1910

1. THEOREDORE SORENSEN, COUNSEL FOR CONTINENTAL GRAIN COMPANY, WHO WAS IN TURKEY LAST WEEK WITH COMPANY REPRESENTATIVES TO PROPOSE AN OUT-OF-COURT SETTLEMENT OF THE CONTRACT DISPUTE BETWEEN CONTINENTAL AND THE OFFICIAL TURKISH SOIL PRODUCTS OFFICE, ASKED THAT THE EMBASSY CONVEY TO COUNSELOR MATTHEW NIMETZ THE FOLLOWING ACCOUNT OF THE TALKS. MR SORENSEN'S ACCOUNT WAS WRITTEN BEFORE THE TALKS CONCLUDED AND, IN EMBASSY'S OPINION, DOES NOT FULLY REFLECT HIS ATTITUDE AT DEPARTURE.

2. BEGIN TEXT
A. CONTINENTAL'S ATTEMPTS TO NEGOTIATE A SETTLEMENT OF ITS \$62 MILLION JUDGMENT AGAINST THE TURKISH GRAIN AGENCY TMO ACHIEVES NO RESULT. CONTRARY TO PREVIOUS ASSURANCES, TALKS WERE CONDUCTED BY TEAM BELOW MINISTERIAL LEVEL. ALTHOUGH TURKISH SIDE ACKNOWLEDGED DEFAULT AND CONTINENTAL AGREED TO TURKISH REQUEST THAT THE JUDGMENT BE SETTLED THROUGH A PAYMENT IN AGRICULTURAL COMMODITIES EQUAL TO AMOUNT OF "ACTUAL

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LOSS" CAUSED BY DEFAULT, NO REALISTIC TURKISH COUNTEROFFER TO CONTINENTAL'S PROPOSAL WAS EVER MADE.

B. THE HIGHEST TURKISH OFFER WAS PURPORTEDLY COMPRISED OF \$17.5 MILLION WORTH OF COMMODITIES. BUT EVEN THIS SMALL AMOUNT INCLUDED ONLY \$11-12 MILLION WORTH OF WHEAT (100,000 TONS), AND THE REST WAS IN UNMARKETABLE POPPIES AND LENTILS. APPARENTLY THE SERIOUSNESS OF THEIR DEFAULT

IS NOT YET FULLY REALIZED ON THE TURKISH SIDE.

C. CONSEQUENTLY CONTINENTAL MUST INSIST UPON EARLY APPLICATION OF US STATUTES PROHIBITING US GOVERNMENT, IN ABSENCE OF PRESIDENTIAL WAIVER NOTICE TO CONGRESS, FROM PROVIDING BILATERAL AID, SUPPORTING WORLD BANK LOANS OR EXTENDING TRADE PREFERENCES TO ANY GOVERNMENT REFUSING TO HAVE CONTRACTUAL DEBT OR ARBITRATION AWARD TO US-OWNED COMPANY. CONTINENTAL REMAINS WILLING TO AGREE ON ANY REASONABLE COMPROMISE PROVIDING AS PAYMENT IN KIND WHEAT (AND IF NECESSARY OTHER MARKETABLE COMMODITIES) IN AMOUNTS MORE NEARLY REFLECTING "ACTUAL LOSS" DETERMINED BY COURTS. TO THIS END CONTINENTAL WOULD BE WILLING TO MEET WITH FOREIGN MINISTER AND PRIME MINISTER DURING THEIR FORTHCOMING TRIPS TO US. BUT CONTINUED TURKISH UNWILLINGNESS TO MAKE OR ACCEPT SERIOUS COMPROMISE PROPOSAL REQUIRES CONTINENTAL TO TAKE ALL STEPS AVAILABLE, INCLUDING ATTACHMENT OF TMO PROPERTY AND

COMMUNICATION TO BOTH LEGISLATIVE AND EXECUTIVE BRANCHES IN US, THE STATUS OF TURKISH DEFAULT AND APPLICABLE STATUTES.

D. CONTINENTAL GREATLY APPRECIATES SUPPORT OF STATE DEPARTMENT AND EMBASSY AS WELL AS EMBASSY ASSURANCE THAT THIS MATTER WILL BE RAISED WITH FOREIGN MINISTER IN NEXT FEW WEEKS. END TEXT

3. COMMENT. BY THE TIME SORENSEN AND HIS COLLEAGUES FROM CONTINENTAL GRAIN WERE LEAVING TURKEY, THEIR FRAME OF MIND WAS NOT AS NEGATIVE AS THE ATTITUDE REFLECTED IN ABOVE STATEMENT. BY THE END OF THE TALKS, THE TWO SIDES WERE, IN FACT, CONFIDENTIAL

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NOT FAR APART ON THE DOLLAR VALUE OF THE SETTLEMENT. AS REPORTED BY SORENSEN ABOVE, THE TURKS WERE OFFERING \$17.5 MILLION WORTH OF COMMODITIES IN DAMAGES, WHILE CONTINENTAL'S POSITION STOOD AT \$22 MILLION. EMBASSY'S AGRICULTURAL ATTACHE, WHO ACCOMPANIED SORENSEN GROUP TO AIRPORT AT DEPARTURE, REPORTED THAT THEY SAID IN THE CAR THAT THEY WERE WILLING TO ACCEPT THE TURKISH OFFER OF \$17.5 MILLION, SUBJECT TO AGREEMENT ON THE COMMODITIES IN WHICH THIS VALUE WOULD BE RECEIVED. AGATT THOUGHT THAT IF CONTINENTAL HAD AGREED TO THIS FIGURE 24 HOURS EARLIER, TALKS MIGHT HAVE ENDED MORE POSITIVELY.

4. ALTHOUGH SORENSEN COMPLAINED IN HIS STATEMENT THAT TURKISH TEAM WAS AT SUB-MINISTERIAL LEVEL, TURKS NEVER PROMISED THAT AGRICULTURE MINISTER WOULD LEAD NEGOTIATIONS. SORENSEN ACTUALLY MET ON TWO SEPARATE OCCASIONS WITH MINISTER WHO MODIFIED HIS TRAVEL SCHEDULE TO BE IN ANKARA AT TIME OF VISIT. MINISTER CLEARLY WAS IN TOUCH WITH TURKISH NEGOTIATORS THROUGHOUT THE VISIT.

5. EMBASSY SUGGESTS, THEREFORE, THAT CONTINENTAL'S "INSTEAD" UPON APPLICATION OF HICKENLOOPER AMENDMENT IS PREMATURE. DCM TALKED TO SORENSEN AT NOON MARCH 11 (DAY

OF HIS DEPARTURE) AND EXPLAINED CIRCUMSTANCES OF PRESENT FLARE-UP OVER ALLEGED US PRESSURES DURING ECEVIT-KARAMANLIS MONTREUX SUMMIT AND TURKISH SENSITIVITY OVER WHAT TURKS CONSIDERED USG FAILURE TO AFFIRM ITS POSITION ON DEFENSE COOPERATION AGREEMENT. SORENSEN WAS TOLD AMBASSADOR WOULD PERSONALLY TAKE UP MATTER AT APPROPRIATE LEVEL OF GOT AS SOON AS IT WAS CLEAR THAT SUCH AN APPROACH WOULD NOT BE COUNTER-PRODUCTIVE. SORENSEN SEEMED SATISFIED WITH FAIRLY COMPLETE EXPLANATION HE RECEIVED OF SITUATION HERE AND IN WASHINGTON. HE COMMENTED, HOWEVER, THAT CONTINENTAL MIGHT WISH TO TESTIFY (BY IMPLICATION NEGATIVELY) AT ANY HEARINGS CONCERNING TURKEY.

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